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10/670,642	09/25/2003	Greg Opheim	30203/38289	6807
4743	7590	11/15/2007	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP			VERDI, KIMBLEANN C	
233 S. WACKER DRIVE, SUITE 6300				
SEARS TOWER			ART UNIT	PAPER NUMBER
CHICAGO, IL 60606			2194	
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			11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/670,642	OPHEIM, GREG	
	Examiner	Art Unit	
	KimbleAnn Verdi	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2007.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


 WILLIAM THOMSON
 SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date August 20, 2007.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

This office action is in response to the Amendment filed on August 20, 2007. Claims 1-20 are pending in the current application. All previously outstanding objections and rejections to the Applicant's disclosure and claims not contained in this Action have been respectfully withdrawn by the Examiner hereto.

Response to Amendment

1. Amendment to the claims and drawings overcomes the previous objection to the claims and drawings.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-8, 14-18, and 19-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 the recitations of "in a process plant, wherein the host system is connected to a plurality of process control devices used in the process plant", and

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"device description associated with the device description" are not disclosed in the specification. Thorough review of the specification by the Examiner did not result in finding of the subject matter properly disclosed in the specification.

Claim 14, the recitation of "download device description of the process control device" is not disclosed in the specification. Thorough review of the specification by the Examiner did not result in finding of the subject matter properly disclosed in the specification.

Claim 19, the recitation of "operable" is not disclosed in the specification. Thorough review of the specification by the Examiner did not result in finding of the subject matter properly disclosed in the specification.

Claims 2-8, 13-18, and 20 are rejected since they are dependent on independent claims 1, 14, and 19.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 9-11, 14, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Application Publication 2006/0120316 A1 to Von Stein et al. (hereinafter Von Stein).

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3. As to claim 1, Von Stein teaches a method of updating a host application running on a host system, in a process plant, wherein the host system is connected to a plurality of process control devices used in the process plant, the method comprising:

sending a first command from the host system to a device to request a device description identification (paragraph [0017]);

receiving the device description identification at the host system (paragraph [0017]);

downloading a device description associated with the device description identification into the host system using the device description identification (paragraph [0017]); and

updating the host application to include the device description (paragraphs [0010] and [0025]).

4. As to claim 2, Von Stein teaches the method of claim 1, wherein downloading the device description includes downloading the device description from one of a CD-ROM, a diskette, and an online database (paragraphs [0006], [0017]).

5. As to claim 3, Von Stein teaches the method of claim 1, wherein updating the host application includes copying the device description into the host application (paragraphs [0010] and [0025]).

6. As to claim 4, Von Stein teaches the method of claim 1, wherein the device is one of a plurality of process control devices used in the process plant (paragraph [0003]).

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7. As to claim 5, Von Stein teaches the method of claim 1, further including searching for the device description on the host system based on the device description identification (paragraph [0017]).

8. As to claim 6, Von Stein teaches the method of claim 1, wherein downloading the device description includes:

connecting the host system to a communication network (PC1, PC2, Internet, IS, Fig. 1, paragraph [0017] and [0020]);

requesting the device description from a device description database connected to the communication network (S, Fig. 1, paragraphs [0017] and [0024]); and

receiving the device description from the device description database (S, Fig. 1, paragraphs [0017] and [0024]).

9. As to claim 7, Von Stein teaches the method of claim 6, wherein the device description database is one of a Fieldbus database, a Profibus database and a HART communication foundation database (paragraph [0003]).

10. As to claim 9, this claim is rejected for the same reasons as claim 1 since claim 9 recites the same or equivalent invention, see the rejection to claim 1 above.

11. As to claim 10, this claim is rejected for the same reasons as claim 3 since claim 10 recites the same or equivalent invention, see the rejection to claim 3 above.

12. As to claim 11, this claim is rejected for the same reasons as claim 6 since claim 11 recites the same or equivalent invention, see the rejection to claim 6 above.

13. As to claim 14, this claim is rejected for the same reasons as claim 1 since claim 14 recites the same or equivalent invention, see the rejection to claim 1 above.

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14. As to claim 18, Von Stein teaches the computer system of claim 14, wherein the software routine is further executable to update a remote host application located on a remote computer communicatively connected to the computer system (paragraph [0016]).

15. As to claim 19, Von Stein teaches a computer system for use in a process plan having a plurality of process control devices and one or more process applications requiring communication with the plurality of process control devices, the computer system comprising:

a communication module operable to request a device description identification from one of the plurality of devices (paragraph [0017]);

a storage module operable to store the device description identification (paragraph [0018]);

a search module operable to search for a device description database storing the device description identified by the device description identification (paragraphs [0017] and [0019]);

a downloading module operable to download a device description from the device description database (paragraph [0017]); and

an updating module operable to update one of the one or more process applications with the device description (paragraphs [0010] and [0025]).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 8, 12, 15-16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication 2006/0120316 A1 to

Von Stein et al. (hereinafter Von Stein) in view of U.S. Patent 6,694,354 B1 to Elg.

18. As to claim 8, Von Stein does not explicitly disclose wherein downloading the device description includes storing an Internet address of the device description database and using one of an Internet communication protocol and a wireless communication protocol to connect to the device description database.

However Elg teaches the method of claim 6, wherein downloading the device description (device driver16, Fig. 1) includes storing an Internet address of the device description database (WEB/FTP site, 17, Fig. 1) (host computer 11, Fig. 1 produces completed URL 14, Fig. 1 by inserting platform/operating system identifier and uses URL 14, Fig. 1 to access WEB/FTP site 17, Fig. 1, and download device driver 16, Fig. 1, col. 3, lines 37-41) and using one of an Internet communication protocol (HTTP/TCP/IP) and a wireless communication protocol (Infrared Data Association protocol, TCP/IP, wireless) to connect to the device description (device driver) database (communication medium 82, Fig. 11, supports RF link, HTTP/TCP/IP, Infrared Data Association protocol, wireless devices col. 5, lines 36-41 and col. 2, lines 63-65).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the IS connection of Von Stein with the teachings of a communication medium from Elg because this feature would have provided a

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mechanism for locating retrieving device drivers associated with mobile peripheral devices (col. 1, lines 51-54 of Elg).

19. As to claim 12, this claim is rejected for the same reasons as claim 8 since claim 12 recites the same or equivalent invention, see the rejection to claim 8 above.

20. As to claim 15, this claim is rejected for the same reasons as claim 8 since claim 15 recites the same or equivalent invention, see the rejection to claim 8 above.

21. As to claim 16, Von Stein as modified teaches wherein the software routine (e.g. software instructions) is further executable on the processing unit (PC 1, Fig. 1 of Von Stein) to identify a device description language (e.g. protocol or OS type and version of Elg) source of the host application (host computer inserts platform/operating system identifier into URL, Fig. 3, col. 3, lines 39-44 of Elg), interpret the device description (device driver of Elg) into the device description language source (platform/operating system identifier of URL, Fig. 3 points to correct drivers which operate with platform/operating system of host computer, col. 3, lines 50-55 of Elg) and insert the device description (device driver of Elg) into the host application (device driver 16, Fig. 1, sent from WEB/FTP site 17, Fig. 1 to Host 11, Fig. 1. of Elg).

22. As to claim 20, this claim is rejected for the same reasons as claim 8 since claim 20 recites the same or equivalent invention, see the rejection to claim 8 above.

23. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication 2006/0120316 A1 to Von Stein et al. (hereinafter Von Stein) in view of U.S. Patent 6,694,354 B1 to Elg as applied to claim 12 above, and further in view of U.S. Patent 5,960,214 to Sharpe, Jr. et al. (hereinafter Sharpe).

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24. As to claim 13, Von Stein as modified by Elg does not explicitly disclose wherein the host application is one of (1) an asset management system application, (2) a plant simulation application, (3) a plant maintenance application, (4) a plant monitoring application, and (5) a process control application.

However Sharpe teaches wherein the host application is one of (1) an asset management system application (Field Management Solutions system 10 (FSM), Fig. 1 which integrates device management (col. 6, lines 10-13) within a manufacturing or refinery process (col. 6, lines 3-5) and (5) a process control application (FSM in interconnected with a distributed control system 14, Fig. 1, col. 5, lines 66-67 and col. 6, lines 1-5, which controls the manufacturing or refinery process, col. 6, lines 3-5).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have further modified the process automation system of Von Stein as modified by Elg with the teachings of an asset management system or process control application from Sharpe because this feature would have further provided the user of the process automation system of Von Stein with a management system used to view multiple devices in a simultaneous or sequential manner, to perform common control and configuration functions without switching applications or interfaces to run non-device specific applications (col. 5, lines 39-43 of Sharpe).

25. Claim 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication 2006/0120316 A1 to Von Stein et al. (hereinafter Von Stein) in view of U.S. Patent 5,960,214 to Sharpe, Jr. et al. (hereinafter Sharpe).

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26. As to claim 17, Von Stein does not explicitly disclose wherein the host application is one of (1) an asset management system application, (2) a plant simulation application, (3) a plant maintenance application, (4) a plant monitoring application, and (5) a process control application.

However Sharpe teaches wherein the host application is one of (1) an asset management system application (Field Management Solutions system 10 (FSM), Fig. 1 which integrates device management (col. 6, lines 10-13) within a manufacturing or refinery process (col. 6, lines 3-5) and (5) a process control application (FSM in interconnected with a distributed control system 14, Fig. 1, col. 5, lines 66-67 and col. 6, lines 1-5, which controls the manufacturing or refinery process, col. 6, lines 3-5).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the process automation system of Von Stein with the teachings of an asset management system or process control application from Sharpe because this feature would have provided the user of the process automation system of Von Stein with a management system used to view multiple devices in a simultaneous or sequential manner, to perform common control and configuration functions without switching applications or interfaces to run non-device specific applications (col. 5, lines 39-43 of Sharpe).

Conclusion

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KimbleAnn Verdi whose telephone number is (571) 270-1654. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KV
11/2/2007

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER